

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

GLUCKWALRATH LLP, MICHAEL H.)
GLUCK and CHRISTOPHER M. WALRATH)
Plaintiffs,)
v.) Civil Action No. _____
ALLIED WORLD INSURANCE COMPANY,)
Defendant.)

)

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1446(a), Defendant Allied World Insurance Company (“Allied World”) files this Notice to remove the above-captioned case to this Court and, in support of removal, respectfully states as follows:

1. Allied World is the sole defendant in a civil action brought by Plaintiffs GluckWalrath LLP, Michael H. Gluck (“Michael Gluck”) and Christopher M. Wairath (“Christopher Walrath”) (“Plaintiffs”) on or about January 21, 2019, in the Superior Court of New Jersey, Law Division, Monmouth County, styled GluckWalrath LLP et al. v. Allied World Insurance Company, Case No. MON-L-0296-19 (Super. Ct. Monmouth Cty., N.J.).
2. The named defendant in the initial Complaint was Allied World Assurance Company. The initial Complaint was not served.
3. Allied World was substituted for the initial defendant via Amended Complaint on January 24, 2019. Counsel for Allied World accepted service of the Amended Complaint in this action on January 25, 2019. This Notice of Removal is, therefore, filed within thirty (30) days of service of the 30 days after the receipt by the Defendant, through service or otherwise, of a copy

of the initial pleading setting forth the claim for relief upon which this action is based and is timely filed under 28 U.S.C. § 1446(b).

4. Copies of all of the papers filed in state court and served upon or otherwise provided to Allied World are attached as the following exhibits:

Exhibit	Paper Served or Filed State Court
1	Summons and Complaint
2	Unsigned Acknowledgement of Service of the Complaint
3	Summons and Amended Complaint
4	Signed Acknowledgement of Service of the Amended Complaint

5. This is a civil action over which the District Courts of the United States have original jurisdiction pursuant to 28 U.S.C. § 1332, because the parties are citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interests and costs.

6. Plaintiffs seek coverage pursuant to an insurance policy with a limit of liability of \$5,000,000. See Complaint (Exhibit 1 hereto), Ex. A, Declarations. Coverage is sought in connection with a Third-Party Complaint against Plaintiffs asserted in an action styled Union Street Investments, LLC v. Smith Group et al., Docket No. Mon-L-003007 (Super. Ct. Monmouth Cty., N.J.) (the “Underlying Action”) (see Complaint, Ex. C). Plaintiffs seek a declaration that Allied World owes coverage for Count II of the Third-Party Complaint; an order compelling Allied World to defend and indemnify against that Third-Party Complaint; compensatory, consequential and punitive damages; and attorney’s fees in this action.

7. The Third-Party Complaint in the Underlying Action alleges, among other things, that Plaintiffs’ actions caused the Third-Party Plaintiffs to lose a restaurant opportunity at TCNJ

Campus Town Development. Complaint, Ex. D at 12-16. A 10% investment in that opportunity was valued at \$315,000; thus, the total value of the proposed restaurant venture was valued at \$3,150,000. Complaint, Ex. B. Thus, the potential damages in the Third-Party Claim for which coverage from Allied World is sought are in the range of multiple millions of dollars, and far exceed \$75,000.

8. Further, Plaintiffs seek coverage for defense costs to be incurred in the Third-Party Complaint, which would exceed \$75,000.

9. Plaintiff GluckWalrath LLP is a limited liability partnership which has as its sole partners the following individuals: Michael H. Gluck, Christopher M. Walrath, David A. Clark, Meghan Bennett Clark, James G. Fearon, Victoria A. Flynn and Robyn B. Gigl (collectively, the “Partners”). Each of the Partners is, and was at the time this action was commenced, an American citizen residing and domiciled in (and therefore a citizen of) the State of New Jersey. Accordingly, for purposes of determining diversity of citizenship, GluckWalrath LLP is and was at the time this action was commenced a citizen of the state of New Jersey. See Lincoln Benefit Life Co. v. AEI Life, LLC, 800 F.3d 99, 105 (3d Cir. 2015).

10. Plaintiff Michael H. Gluck is, and was at the time this action was commenced, an American citizen residing and domiciled in (and therefore a citizen of) the State of New Jersey.

11. Plaintiff Christopher M. Walrath is, and was at the time this action was commenced, an American citizen residing and domiciled in (and therefore a citizen of) the State of New Jersey.

12. Accordingly, each of the three Plaintiffs is a citizen of the state of New Jersey.

13. Allied World, the sole Defendant, is an insurance company organized and incorporated under the laws of the state of New Hampshire, and has its principal place of

business now and at the time this action was commenced in New York, New York. Therefore, Allied World is a citizen of the States of New Hampshire and New York.

14. Removal of this action is, therefore, proper under 28 U.S.C. § 1441, since it is a civil action brought in a state court, and the district courts of the United States have original jurisdiction over the subject matter under 28 U.S.C. § 1332 because the Plaintiffs and Defendant are diverse in citizenship and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

WHEREFORE, Allied World, the only defendant in this action, pursuant to 28 U.S.C. § 1441 and in conformance with the requirements set forth in 28 U.S.C. § 1446(b) and the Rules of the United States District Court for the District of New Jersey, removes this action for trial from the Superior Court of New Jersey, Law Division, Monmouth County, on this 21st day of February, 2019.

Dated: February 21, 2019

Respectfully submitted,

/s/ Melissa J. Brown
Melissa J. Brown
Marks, O'Neill, O'Brien, Doherty & Kelly, P.C.
Cherry Tree Corporate Center
535 Route 38 East, Suite 501
Cherry Hill, NJ 08002
Phone: 856-663-4300
mbrown@moodklaw.com

Attorneys for Defendant
Allied World Insurance Company